

SEC. 2. AMENDMENTS.

Section 707(b)(2)(D) of title 11, United States Code, is amended—

[(1) in each of clauses (i) and (ii)—

[(A) by indenting the left margins of such clauses 2 ems to the right; and

[(B) by redesignating such clauses as subclauses (I) and (II), respectively;

[(2) by striking “if the debtor is a disabled veteran” and inserting the following:

[(“if—

[(“i) the debtor is a disabled veteran”;

[(3) by striking the period at the end and inserting “; or”;

[(4) by adding at the end the following:

[(“i) while—

[(“i) the debtor is—

[(“aa) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101(d)(1) of title 10) of not less than 90 days; or

[(“bb) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32) performed for a period of not less than 90 days; and

[(“II) if, after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.”.]

(1) in clauses (i) and (ii)—

(A) by indenting the left margin of such clauses 2 ems to the right, and

(B) by redesignating such clauses as subclauses (I) and (II), respectively,

(2) by striking “testing, if the debtor is a disabled veteran” and inserting the following: “testing—

“(i) if the debtor is a disabled veteran”,

(3) by striking the period at the end and inserting “; or”, and

(4) by adding at the end the following:

“(ii) with respect to the debtor, while the debtor is—

“(I) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101(d)(1) of title 10) of not less than 90 days; or

“(II) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32) performed for a period of not less than 90 days; if after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.”.

SEC. 3. GAO STUDY.

(a) COMPTROLLER GENERAL STUDY.—Not later than 2 years after the effective date of this Act, the Comptroller General shall complete and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a study of the use and the effects of the provisions of law amended (and as amended) by this Act. Such study shall address, at a minimum—

(1) whether and to what degree members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(2) whether and to what degree such members are debtors in cases under title 11 of the United States Code that are substantially related to service that qualifies such members for the benefits of such provisions,

(3) whether and to what degree such members are debtors in cases under such title that are materially related to such service, and

(4) the effects that the use by such members of section 707(b)(2)(D) of such title, as

amended by this Act, has on the bankruptcy system, creditors, and the debt-incurrence practices of such members.

(b) FACTORS.—For purposes of subsection (a)—

(1) a case shall be considered to be substantially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of the provisions of law amended (and as amended) by this Act if more than 33 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service,

(2) a case shall be considered to be materially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of such provisions if more than 10 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service, and

(3) the term “effects” means—

(A) with respect to the bankruptcy system and creditors—

(i) the number of cases under title 11 of the United States Code in which members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(ii) the aggregate amount of debt in such cases,

(iii) the aggregate amount of debt of such members discharged in cases under chapter 7 of such title,

(iv) the aggregate amount of debt of such members in cases under chapter 7 of such title as of the time such cases are converted to cases under chapter 13 of such title,

(v) the amount of resources expended by the bankruptcy courts and by the bankruptcy trustees, stated separately, in cases under title 11 of the United States Code in which such members avail themselves of the benefits of such provisions, and

(vi) whether and to what extent there is any indicia of abuse or potential abuse of such provisions, and

(B) with respect to debt-incurrence practices—

(i) any increase in the average levels of debt incurred by such members before, during, or after such service,

(ii) any indicia of changes in debt-incurrence practices adopted by such members in anticipation of benefitting from such provisions in any potential case under such title; and

(iii) any indicia of abuse or potential abuse of such provisions reflected in the debt-incurrence of such members.

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code in the 3-year period beginning on the effective date of this Act.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 3197), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT
AGREEMENT—H.R. 7081

Mr. REID. Mr. President, I ask unanimous consent that after the prayer and pledge and any remarks of the leaders on Wednesday, October 1, the Senate proceed to the consideration of H.R. 7081, which is at the desk; that the bill be considered under the following limitations: That there be 60 minutes of general debate on the bill, with the time equally divided and controlled between the leaders or their designees; that the only first-degree amendments in order be those listed in this agreement, with no other amendments in order, and debate time limited on each amendment to 60 minutes, with the time equally divided and controlled in the usual form; further, that an additional debate time of 15 minutes each be provided to Senators FEINGOLD and HARKIN; a Dorgan amendment re: clarify policy in event of Indian test, and a Bingaman amendment re: reporting requirement in event of Indian test; that the amendments in this agreement be subject to an affirmative 60-vote threshold, and that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if the amendment does not achieve that threshold, then it be withdrawn; that upon the use or yielding back of time with respect to each amendment, the Senate then proceed to vote in relation to the amendment; that upon disposition of all amendments, the use or yielding back of general debate time, the bill be read a third time, and without further intervening action or debate, the Senate proceed to vote on passage of the bill, as amended, if amended; provided further that passage of the bill requires 60 votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT
AMENDMENT—H.R. 1424

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, October 1, following the debate with respect to H.R. 7081, the Senate proceed to the consideration of Calendar No. 610, H.R. 1424; that once the bill is reported, the Dodd, et al., amendment, which is at the desk, be considered; except that this agreement is only valid if both leaders are in concurrence with the provisions of the Dodd, et al., amendment and have so notified the Chair, and that there be general debate